

Sep 17, 2010

FILED
CLERK'S OFFICE

**BEFORE THE JUDICIAL PANEL
ON MULTIDISTRICT LITIGATION**

IN RE: DEPUY ORTHOPAEDICS ASR)	MDL No.2197
HIP IMPLANT LITIGATION)	
)	OPPOSITION TO MOTION OF
)	PLAINTIFF BRIGHAM FOR
)	TRANSFER OF ACTIONS TO THE
)	DISTRICT OF NEW JERSEY
)	PURSUANT TO 28 USC § 1407 FOR
)	COORDINATED OR
)	CONSOLIDATED PRETRIAL
)	PROCEEDING
)	

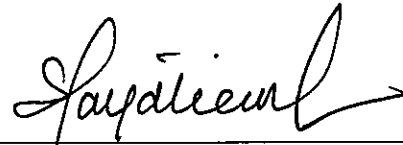
COMES NOW the Sandra Bloom, by and through her attorneys, Shireen Jayatilaka Michael J. Winkelman, and McCarthy & Winkelman, L.L.P. and moves for the denial of Plaintiff Brigham's Motion to Transfer Action to the District of New Jersey pursuant to 28 USC § 1407, only as it relates to Sandra Bloom's action against DePuy Orthopaedics, Inc., filed in the United States District Court for the District of Maryland, case number 1:10-CV-02170-BEL. Plaintiff respectfully refers to its accompanying Memorandum in Opposition.

McCARTHY & WINKELMAN, L.L.P.

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By:



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CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on this 13 day of September, 2009, a copy of the foregoing Opposition was mailed, postage prepaid to:

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Shireen Jayatilaka

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MEMORANDUM IN SUPPORT OF SANDRA BLOOM'S OPPOSITION

COMES NOW, Plaintiff, Sharon Forbes, by and through undersigned counsel, Shireen Jayatilaka, and McCarthy & Winkelman, L.L.P, respectfully submits this Memorandum in Support of its Opposition to Plaintiff Brigham's Motion to Transfer Action to the District of New Jersey pursuant to 28 USC § 1407 and states the following:

1. Plaintiff Brigham has filed this Motion to Transfer and Consolidate the list of actions identified as “Exhibit A” in Plaintiff’s motion. One of those cases has been identified as *Sandra Bloom v. DePuy Orthopaedics, Inc.*, filed in the United States District Court for the District of Maryland, case number 1:10-CV-02170-BEL.

2. Plaintiff Brigham has brought his lawsuit against DePuy Orthopaedics, Inc. specifically alleging the failure of the hip replacing devices, ASR XL Acetabular System and ASR Hip Resurfacing Platform, collective known as “ASR Hip Implant Devices”.

3. Plaintiff has further alleged in Plaintiff’s Class Action Complaint that the ASR Hip Implant Devices are defective and as a result caused serious and permanent injury to the Plaintiff and other patients who have had the device implanted. These injuries included, but were not limited to, pain, swelling, severe inflammation of surrounding tissue and bone, lack of mobility and the need for revision surgery to remove the defective ASR implant.

4. Sandra Bloom, by virtue of the lawsuit filed against DePuy Orthopaedics, Inc., alleges quite different facts involving a different implant altogether.

5. Ms. Bloom underwent a hip replacement surgery involving the following devices: Acetabular Cup size MM52 (REF 1217-22-052, LOT CC4HT 1000); Hole Eliminator-PS (REF 1246-03-000, LOT CC7EN1000); Cancellous Bone Screw Dia MM 6.5 MM LGT 15 (REF 1217-15-500, LOT B5TAS4000); Metal Insert (REF 121887352, LOT 2480499); Tapered Hip Stem with Porocoat (REF 1570-11-110, LOTB77D11000); and Articul/eze M Metal on Metal Femoral Head (REF 1365-53-000, LOT 2403097).

6. None of these devices are part of the ASR XL Acetabular System and ASR Hip Resurfacing Platform.

7. In addition, Ms. Bloom alleges that during her surgery when the hip was dislocated anteriorly, the trial head disassociated from the femoral component and the head and neck passed through a defect in the anterior capsule. The neck became stuck, after which the head slid along the iliopsoas tendon up into the hemipelvis anterior to the acetabulum.

As a result, Plaintiff had to undergo a separate abdominal incision to remove the disassociated trial femoral head component.

8. Although multidistrict litigation was designed to promote the just and efficient conduct of different civil lawsuits filed in different districts and that involve one or more common questions of fact,¹ this is certainly not the case here.

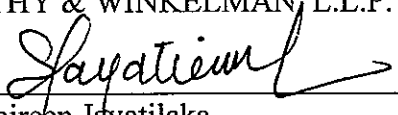
9. Very simply, Mr. Brigham's lawsuit and Ms. Bloom lawsuit not only involve different set of circumstances and failures, these lawsuits do not involve the same or similar implants.

WHEREFORE, for the reasons stated herein, Sandra Bloom respectfully requests that the Plaintiff Brigham's Motion to Transfer Action to the District of New Jersey pursuant to 28 USC § 1407 be denied, **ONLY** as it relates to Sandra Bloom's action against DePuy Orthopaedics, Inc., filed in the United States District Court for the District of Maryland, case number 1:10-CV-02170-BEL.

¹ 28 U.S.C. § 1407 (a). *See also In re Phenylpropanolamine Products Liability Litigation*, 460 F.2d 1217, 1229 (9th Cir. 2006).

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